

**UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF WISCONSIN**

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**THOMAS GLASS, JR.,**  
**Petitioner,**

**v.**

**Case No. 14-cv-1306**

**SCOTT ECKSTEIN, Warden,**  
**Green Bay Correctional Institution,**  
**Respondent.**

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**DECISION AND ORDER**

Thomas Glass filed a pro se petition for a writ of habeas corpus pursuant to 28 U.S.C. § 2254 alleging 12 separate grounds for federal habeas relief. On March 28, 2016, I concluded that petitioner had failed to exhaust 11 of his 12 claims, making his petition a mixed petition which I could not adjudicate. I gave petitioner the option of either withdrawing the 11 unexhausted claims and proceeding only on his exhausted one or requesting a stay and abeyance of this case while he attempts to exhaust the 11 unexhausted claims in state court.

Petitioner originally requested a stay and abeyance but then changed his mind, requesting instead to withdraw the petition and be permitted to later resubmit his § 2254 petition. I explained to petitioner that by withdrawing the petition, he may risk being time-barred from resubmitting a second habeas petition, and he has now reconsidered and instead requests that I stay this case while he attempts to exhaust his claims in state court. Respondent has not responded to any of petitioner's communications, and I therefore conclude that he does not oppose the stay and abeyance.

I conclude that a stay and abeyance is appropriate in this case in order to give petitioner time to attempt to exhaust his unexhausted claims in state court. Petitioner has shown good cause for failing to exhaust his claims in state court; he apparently had a disagreement with his appellate counsel and did attempt to raise these issues at the supreme court level, albeit too late. Additionally, I concluded in my March 28 order that petitioner may still be able to raise at least some of these claims in state court, see Decision & Order at 3 (ECF No. 27), and there is no evidence that petitioner engaged in intentionally dilatory litigation tactics. See *Rhines v. Weber*, 544 U.S. 269, 274–75 (2005) (listing the criteria for granting a stay and abeyance of a mixed petition). Therefore, I will grant petitioner’s motion. After petitioner has exhausted his claims in state court, he should notify this court that he is ready to proceed with his federal habeas case so that the stay and abeyance can be lifted.

**THEREFORE, IT IS ORDERED** that petitioner’s motion to stay case and hold in abeyance (ECF No. 29) is **GRANTED**. This case is hereby **STAYED** and shall be held in **ABEYANCE** pending notification from petitioner that he has completed all state court proceedings related to these claims and is ready to proceed with his federal habeas petition.

**IT IS FURTHER ORDERED** that petitioner’s motion to withdraw his petition (ECF No. 31) is **DENIED** based on petitioner’s May 9, 2016 letter.

Dated at Milwaukee, Wisconsin, this 16th day of May, 2016.

s/ Lynn Adelman

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LYNN ADELMAN  
District Judge